

Motion 522(f)(1)(A) (11/16)

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO**

In re Lonnie Muncy)
) Case No. 17-52787
) Chapter 7
) Judge John E. Hoffman, Jr.

Debtor/s

MOTION TO AVOID JUDICIAL LIEN ON REAL PROPERTY
PURSUANT TO 11 U.S.C. § 522(f)(1)(A)

Lonnie Muncy (the "Debtor," whether individually or collectively)
moves the court pursuant to 11 U.S.C. § 522(f)(1)(A) and Federal Rules of Bankruptcy Procedure 4003(d) and
9014 for an order granting this motion to avoid the judicial lien of
LANDMARK CAPITAL INVERTMENTS, INC. (the "Creditor").

Memorandum in Support

(1) The Debtor filed a voluntary petition under chapter 7 of the Bankruptcy Code on
May 1, 2017 (the "Petition Date").

☐ The Debtor's case was converted to a case under Chapter of the Bankruptcy Code on
_____ .

(2) As of the Petition Date, the Debtor was the owner of the following real property located at
2350 McComb Road, Grove Coty OH 43123 joint and survivorship interest (the "Property").
The Debtor owns the Property

☒ A legal description of the property is attached as Exhibit A .

(3) The value of the Property as of the Petition Date, as set forth in the
attached Exhibit B

was \$ 115,300.00 .

(4) The Debtor's interest in the Property as of the Petition Date was \$ 57,650.00 .

(5) As of the Petition Date, the Property was subject to certain mortgages/liens in the amounts
specified and in the relative priority set forth below:


☐ None

First mortgage/lien:

Wells Fargo Home Mortgage
in the amount of \$ 69,483.69 recorded on November 12, 1998 .

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<u>Additional mortgage/lien:</u> STATE OF OHIO DEPARTMENT OF TAXATION in the amount of \$ <u>876.95</u> recorded on <u>November 28, 1998</u> .
<u>Additional mortgage/lien:</u> MODERN BUILDERS SUPPLY, INC. in the amount of \$ <u>47,087.82</u> recorded on <u>January 18, 2007</u> .
<u>Additional mortgage/lien:</u> HUNTINGTON NATIONAL BANK in the amount of \$ <u>49,980.32</u> recorded on <u>January 24, 2012</u> .
<u>Additional mortgage/lien:</u> LANDMARK CAPITAL INVESTMENTS, INC. in the amount of \$ <u>50,457.41</u> recorded on <u>December 1, 2011</u> .

(6) The Creditor obtained a judgment in the amount of \$ 13,734.13 against the Debtor on December 7, 2007 in the Franklin County Common Pleas Court .
The Certificate of Judgment was filed on December 1, 2011 with the Franklin County Common Pleas Court, Ohio  at 345 S High Street, Columbus OH 43215 .

(7) The Debtor has claimed or is entitled to claim an exemption in the Property in the amount of \$ 136,925.00 pursuant to Ohio Revised Code 2329.66(A)(1) .

(8) 11 U.S.C. § 522(f)(2)(A) provides that "a lien shall be considered to impair an exemption to the extent that the sum of: (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any lien." 11 U.S.C. § 522(f)(2)(A).

(9) Using the formula set forth above, the judicial lien of the Creditor impairs the Debtor's exemption, wherefore the judicial lien of the Creditor is avoidable pursuant to 11 U.S.C. § 522(f)(2)(A). In this case we have the following values:

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a. Amount of judicial lien	\$	<u>13,734.13</u>
b. Amount of all other liens	\$	<u>217,886.19</u>
c. Value of exemptions	\$	<u>45,816.31</u>

d. Total: lines a + b + c = line d	\$	<u>277,436.63</u>
e. Value of the Debtor's interest in the Property	\$	<u>57,650.00</u>

f. Subtract line e from line d	\$	<u>219,786.63</u>
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Extent of exemption impairment:	\$	<u>45,816.31</u>
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If line f is equal to or greater than line a, the entire judicial lien is avoided

If line f is less than line a, a portion of the judicial lien may be avoided

(10) Upon
discharge of the Debtor

the judicial lien of the Creditor on the Property will be avoided. If the Creditor fails to timely release the judicial lien, the Debtor may submit an order granting this motion to the applicable court or recorder's office as evidence of the release of the judicial lien.

WHEREFORE, the Debtor requests that the court grant the Motion to Avoid Judicial Lien on Real Property pursuant to 11 U.S.C. § 522(f)(1)(A).

Respectfully submitted,

/s/ Ric Daniell

Ric Daniell 0032072

Law Office Ric Daniell

1660 NW Professional Plaza #A, Col OH
43220

Ph: (614) 459-2001

Fx: (614) 459-2001

ricdaniell@hotmail.com

Notice of Motion

Debtor has filed a Motion to Avoid Judicial Lien on Real Property pursuant to 11 U.S.C. § 522(f)(1)(A).

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the motion**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to

OR your attorney must file a response using the court's ECF System.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to:

Ric Daniell 1660 NW Professional Plaza #A Col OH 43220

Larry J. McClatchey, 65 East State Street, Suite 1800, Columbus, OH 43215

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting the relief without further hearing or notice.

Certificate of Service

I hereby certify that true and accurate copies of the foregoing Motion to Avoid Judicial Lien on Real Property pursuant to 11 U.S.C. § 522(f)(1)(A) and Notice of Motion were served on June 27, 2017

On the following parties by regular U.S. Mail:

ROKKI ROGAN
Registered Agent
1268 NORTH RIVER ROAD SUITE 1
WARREN, OH 44483

Synchrony Bank
c/o PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541

And on the following parties by certified mail, return receipt requested:

And on all ECF participants registered in this case at the email address registered with the Court on the date of filing.

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/s/ Ric Daniell

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